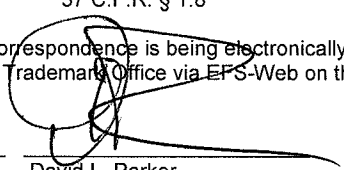


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| CERTIFICATE OF ELECTRONIC TRANSMISSION<br>37 C.F.R. § 1.8  |   |
| I hereby certify that this correspondence is being electronically filed with the<br>United States Patent and Trademark Office via EFS-Web on the date below: |   |
| December 11, 2009<br>Date  | <br>David L. Parker |

**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Gong et al.

Serial No.: 11/749,032

Filed: May 15, 2007

For: CHIMERIC GENE CONSTRUCTS FOR  
GENERATION OF FLUORESCENT  
TRANSGENIC ORNAMENTAL FISH

Group Art Unit: 1632

Examiner: Singh, Anoop Kumar

Atty. Dkt. No.: GLOF:007USD1

**DECLARATION OF ZHIYUAN GONG**

I, Zhiyuan Gong, declare as follows:

1. I am a joint inventor of the subject matter disclosed and claimed in the referenced application. I am currently a professor of Department of Biological Sciences, National University of Singapore, Singapore, and have previously made my *curriculum vitae* of record in the referenced prosecution. Unless otherwise indicated, I have personal knowledge of the facts recited hereinbelow.

2. I understand that the PTO examiner has recently cited the document CHAN Chiew Hua, "Isolation of Myosin Light Chain Promoter using Linker-Mediated PCR," thesis submitted in partial fulfillment for the degree of Bachelor of Science with Honours in Cell and Molecular Biology, Departments of Botany & Zoology, National University of Singapore, 1995/96"(document C89), in the prosecution of the referenced patent application. Additionally submitted to the patent office (but I understand not relied upon by the examiner), was the

reference of TIAN Ho Lian, "Functional Analysis of a Skeletal Muscle-Specific Promoter in Zebrafish," thesis submitted to the School of Biological Sciences, National University of Singapore, 1996/97 (document C90).

3. The authors of documents C89 and C90 were students in my laboratory enrolled in the Undergraduate Honors Program at the National University of Singapore. The Undergraduate Honors Program is one to which undergraduate students may apply after they have completed 3 years of study, and consists of approximately 70% course work and 30% research. More specifically, the first semester of the program consists exclusively of course work and in the second semester, in addition to some further course work, the students are required to conduct research and write a lengthy report on their research. Documents C89 and C90 are examples of such reports, that reflect the result of studies conducted by two such Honors Program students that worked in my laboratory under my direction and control.

4. The manner in which such thesis reports are handled within our department, the Department of Biological Sciences, is as follows (as I have confirmed with our departmental secretary): Once the report is completed, it is given to the department secretary, who then sends the report to a departmental examiner, who conducts a review (*i.e.*, grades the thesis). The departmental examiner is then required to return the thesis to the department. The department generally, but does not always, retain a copy of such reports in the departmental files. There is no card cataloguing of such reports in the department. Copies of some of these reports were at one time kept in a departmental reading room in the 1998 time frame. However, that reading room is no longer in existence, and when it was, that room was for internal use only. It is unknown whether copies of documents C89 or C90 were ever retained in the departmental reading room. In any event, since these students worked under my direction and control on a

project that I designed and implemented, I retained a copy of each of documents C89 and C90 in my personal files.

5. I visited the National University of Singapore library in 2009 and confirmed that neither document C89 nor C90 was listed in the library card catalogue, and I was unable to otherwise find either document in the library.

6. I hereby declare that all statements made of my own knowledge are true and all statements made on information are believed to be true and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

\_\_\_\_\_  
Dec 3, 2009  
Date

\_\_\_\_\_  
/Zhiyuan Gong/  
Zhiyuan Gong